

FISCAL NOTE

SB 546 - HB 1018

February 27, 2003

SUMMARY OF BILL:

- Extends the provisions of present law to allow the use of educational records of public and private post-secondary institutions, as evidence in civil or criminal cases.
- Revises the following procedures:
 - Increases the time from five days to 20 days in which a school's record custodian must file a true and correct copy of all records described in the subpoena with the court clerk or the officer, body, or tribunal conducting the hearing.
 - Before complying with a subpoena the school must make a reasonable effort to notify the student (if the student is 18 years old or older) or the student's natural parent, guardian, or person acting on behalf of the parent, so that the student or parent may seek protective action. The notification provision would not apply if the subpoena is issued by a federal grand jury or for a law enforcement purpose and the court or other issuing agency orders that the existence or contents of the subpoena or the information furnished in response to the subpoena not be disclosed. The custodian would provide an affidavit with the records that such notice was provided or met one of the exceptions to notice.
 - The judge or attorney must first determine that the custodian's affidavit is provided, that the student or parent had time in which to quash the subpoena, and that no motion to quash is pending before furnished records are opened.

Present law permits the use of educational records at public, private, or parochial schools as evidence in civil or criminal cases.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures - Not Significant

Post-secondary institutions currently have in place a process to follow to provide student records for which a subpoena has been issued in order to comply with the Family Educational Rights and Privacy Act. Any cost associated with making the current process correspond with the provisions of this bill will be not significant.

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.



James A. Davenport, Executive Director

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